

REMARKS

In response to the Office Action dated February 7, 2007, Applicant respectfully requests reconsideration based on the above amendments and the following remarks. Applicant respectfully submits that the claims as presented are in condition for allowance.

Claims 1-15, 17 and 19-21 were rejected under 35 U.S.C. § 112, first paragraph as allegedly failing to meet the written description requirement. The written description requirement mandates that the inventor have possession of the claimed invention upon filing the application. The Examiner submits that the generation of a fourth data set from three data sets was not described in the original specification. Applicants respectfully disagree. Paragraphs [0026-0027] describe an embodiment where three data sets involving the word ballet are used to generate a master data set. Thus, generation of a fourth data set from three data sets was clearly in the inventors' possession upon filing. Accordingly, the rejection under 35 U.S.C. § 112, first paragraph should be withdrawn.

Claims 1-15, 17 and 19-21 were rejected under 35 U.S.C. § 112, second paragraph as allegedly being indefinite. The claims have been amended to address the items raised by the Examiner.

Claims 1-6, 9-15 and 19-21 were rejected under 35 U.S.C. § 103 as being unpatentable over Herz in view of Official Notice. This rejection is traversed for the following reasons.

Claim 1 as amended recites, *inter alia*, "assigning a plurality of potential interest elements based on a number of matches between the first, second and third attributes; and ranking the potential interest elements based on the number of matches between the first, second and third attributes." Support for these features is found in at least paragraph [0027] of Applicants' specification. Herz fails to teach or suggest these features. Herz ranks target objects but not based on the number of matches between the first, second and third attributes in data sets. The Examiner relied on Official Notice to support that the number of data sets is an obvious design choice. This feature, however, does not cure the deficiencies of Herz discussed above.

Further, Applicant traverses the Examiner's reliance on Official Notice of using three data sets, one from a digital video record or, one from a store computer and one from a

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personal computer. As noted in MPEP § 2144.03, official notice unsupported by documentary evidence should only be taken by the examiner where the facts asserted to be well-known, or to be common knowledge in the art are capable of instant and unquestionable demonstration as being well-known. In the present case, the use of three data sets (one from a digital video record or, one from a store computer and one from a personal computer) is certainly not unquestionably known in the art. The claimed sources and use of the three data sets are not well known and thus reliance on Official Notice is improper. Applicant requests that the Examiner provide documentary evidence to support the reliance on Official Notice pursuant to MPEP § 2144.03.

For at least the above reasons, claim 1 is patentable over Herz. Claims 2-6 and 9 depend from claim 1 and are patentable over Herz for at least the reasons advanced with reference to claim 1.

Claim 10 recites features similar to those discussed above with reference to claim 1 and is patentable over Herz for at least the reasons advanced with reference to claim 1. Claims 11- 16, 19 and 20 depend from claim 10 and are patentable over Herz for at least the reasons advanced with reference to claim 1.

Claim 21 recites features similar to those discussed above with reference to claim 1 and is patentable over Herz for at least the reasons advanced with reference to claim 1.

Claims 7-8 and 17 were rejected under 35 U.S.C. § 103 as being unpatentable over Herz in view of Official Notice and Lammerhuber. This rejection is traversed for the following reasons. Lammerhuber was relied upon for disclosing generation of a data set using a cell phone, but fails to cure the deficiencies of Herz in view of Official Notice discussed above with reference to claim 1. Claims 7-8 depend from claim 1 and are patentable over Herz in view of Official Notice and Lammerhuber for at least the reasons advanced with reference to claim 1. Claim 17 depends from claim 10 and is patentable over Herz in view of Official Notice and Lammerhuber for at least the reasons advanced with reference to claim 10.

In view of the foregoing remarks and amendments, Applicants submit that the above-identified application is now in condition for allowance. Early notification to this effect is respectfully requested.

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If there are any charges with respect to this response or otherwise, please charge them to Deposit Account 06-1130.

Respectfully submitted,

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